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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,811	07/01/2002	Yoshihiko Funakoshi	217206US3PCT	4840
22850	7590	03/27/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
VANORE, DAVID A				
ART UNIT		PAPER NUMBER		
2881				
NOTIFICATION DATE		DELIVERY MODE		
03/27/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/926,811

Applicant(s)

FUNAKOSHI ET AL.

Examiner

David A. Vanore

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 59-61, 63-65, 67, 71-75, 77-82, 106, 109-111, 114 and 116 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 11, 59-61, 63-65, 67, 71-75, 77-82, 106, 109-111 and 114 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 21 December 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Final Drawing (PTO-846)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/11/08
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 59-61, 63-65, 67, 71-75, 77-82, 106, 109-111, 114, and 116 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anspach et al. (USPN 4,579,274) with Wells et al. (USPN 5,848,111) and Homer (USPN 4,836,934) cited as evidence.

3. Regarding claims 59-61, 67, 74-75, 79-80, 84, 106, 110-111, and 116, Anspach et al. teaches a radiation container having an integrally formed body (Fig. 3 Item 3) produced by casting (Col. 2 Lines 50-51) where casting produces a continuous metal flow and the body is composed of a forgeable material being steel, where the thickness of the steel container of Anspach et al. is sufficient to maintain a dosage of gamma radiation at or below 40 where the shape of a section of the container is polygonal (Fig. 3). Regarding claim 80 specifically, air contains radioactive isotopes. The container of Anspach et al. would provide sufficient shielding such that the dosage requirement of claim 80 would be satisfied due to the low activity of the isotopes, and their concentrations, in air. Further, concerning claim 61, the rectangular side walls of the Anspach et al. reference have a "step" illustrated in Fig. The claims also contain

limitations reciting the method of forming. Limitations reciting the method of forming of the container or the device used to form the container are part of the process utilized to realize the final product. As such the claims have been treated as product by process claims.

4. Anspach et al. fails to show that the inner circumference of a section of the container is an octagonal polygon.

5. A circular shaped container and an octagonal shaped container are both convenient shapes to receptively accommodate materials to be contained. Note USPN 4,836,934 Fig. 4c and USPN 5,848,111 Fig. 2.

6. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the shape of a section of the container octagonal because such a modification comprises a change in the shape of a container with no associated new or unexpected result. Such a modification is obvious because it has been held that changing the shape of that which is disclosed in the prior art is an obvious modification where no new or unexpected result is achieved.

7. Regarding claims 63, 71, 109, and 114, the inner diameter of the container body is 1 meter, indicating that the outer diameter is not less than 1 meter, but, as indicated in Fig. 3, not more than three meters. Further, given the illustrated diameter of the container, the thickness is illustrated as being about a less than a third, but more than one tenth of the diameter of the container, and therefore falls in the range required in the claim.

8. Regarding claim 65, 73, 78, and 82, the container includes an integral flange (Fig. 3 Item 5).
9. Claims 64, 72, 77, and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anspach et al. (USPN 4,579,274) in view of Kirchner et al. (USPN 5,567,952).
10. Anspach et al. teaches all the required limitations of claims 64, 72, 77, 81, and 85 except for a spot facing section.
11. Kirchner et al. teaches a radioactive container having a spot facing section filled with neutron absorbing material (Item 23 in Fig. 3B).
12. Kirchner et al. modifies the prior art of Anspach et al. to provide a container having a spot facing section.
13. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a spot facing section in a radioactive container to provide space for further neutron absorbing material as utilized in Kirchner et al. to provide additional shielding material, thereby maintaining a safe environment external the container.

Response to Arguments

14. Applicant's arguments filed February 5, 2008 have been fully considered but they are not persuasive.
15. Applicant has added new limitations to the independent claims including language reciting that the container is a forged bottomed container made of a forgeable material, where the bottom and body are formed integrally and that the bottom and body

have continuous metal flow. The Anspach reference shows that the container is cast, thus providing continuous metal flow, and that it is composed of iron which is a forgeable material.

16. Applicant's remarks traversing the combination of the Anspach et al. with Well, Homer, and Kirchner are not persuasive. The Applicant has set forth that the cylindrical configuration of Anspach et al. is for accommodating a cylindrical container, and that because of this shape, no one of ordinary skill would be motivated to change the shape of the Anspach et al. container.

17. On the contrary, the teaching of Anspach et al. towards the importance of maintaining thermal contact with a container situated therein underscores the rationale applied by the examiner that one of ordinary skill would have adequate motivation to change the shape of Anspach et al. to ensure good contact with an article situated therein, regardless of shape. The Wells and Homer references were relied upon to demonstrate that the octagonal shape on an interior of a containment device for radioactive vessels is known in the art, and give the teaching of Anspach et al., one of ordinary skill would have a teaching at hand that such a shape would be useful in the adaptation of the Anspach et al. container.

18. The rejection of all pending claims is maintained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Vanore whose telephone number is (571) 272-2483. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Kim can be reached on (571) 272-2293. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David A Vanore/
Primary Examiner, Art Unit 2881

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